

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JAMES LUZADER, JR.,)	Case No.: 5:14 CV 1734
)	
Plaintiff)	
)	JUDGE SOLOMON OLIVER, JR.
v.)	
)	
COMMISSIONER OF SOCIAL)	
SECURITY ADMINISTRATION,)	
)	
Defendant)	<u>ORDER</u>

The Commissioner of Social Security Administration (the “Commissioner”) denied disability benefits to Plaintiff James Luzader, Jr. (“Plaintiff”), in the above-captioned case. Plaintiff sought judicial review of the Commissioner’s decision, and this court referred the case to Magistrate Judge Kenneth McHargh for preparation of a Report and Recommendation (“R&R”). Both parties submitted briefs on the merits. Plaintiff requested an order reversing the Commissioner’s decision on the basis that the Administrative Law Judge’s (“ALJ”) determination that he was not illiterate, and therefore not disabled, was not supported by substantial evidence. The Commissioner sought final judgment upholding the decision below.

Magistrate Judge McHargh submitted his R&R (ECF No. 19) on June 4, 2015, concluding that the court should affirm the Commissioner’s final decision. The Magistrate Judge concluded that the ALJ properly considered the record as a whole and that substantial evidence supported the ALJ’s determination that Plaintiff was not disabled. Specifically, the Magistrate Judge found that the ALJ’s determination that Plaintiff had a limited education, but was not illiterate, was supported by

substantial evidence, as demonstrated by the ALJ's discussion of "Plaintiff's testimony regarding his ability to read; educational history; intellectual testing . . . ; the work history report submitted as part of the disability application; statements made to healthcare providers; and . . . [the] analysis and conclusion that Plaintiff had a limited education," from the denial of a prior disability application. (R&R at 14.)

Plaintiff filed an Objection to Report and Recommendation (ECF No. 20) on June 22, 2015. Plaintiff's Objection was untimely, but the court will consider them anyway. Plaintiff argues that the Magistrate Judge's conclusion that the ALJ considered the record as a whole was erroneous and the court should not defer the ALJ's findings. As support, Plaintiff contends that the Magistrate Judge improperly stated that his intellectual testing results contradict one another and improperly relied on his "successful" work history. Furthermore, Plaintiff argues that the ALJ ignored aspects of the record documenting his problems with literacy and that the ALJ's decision was based entirely on a reference in the record to Plaintiff having searched for information about his medications on the internet.

Plaintiff presents no basis to reject the Magistrate Judge's conclusions. The Magistrate Judge emphasized the significance of Plaintiff's most recent Wide Range Achievement Test and made no improper findings or comparisons in this regard. The Magistrate Judge also properly considered the ALJ's discussion of Plaintiff's reported past employment. Moreover, while Plaintiff alleges that the ALJ ignored several aspects of the record, the examples given are mostly based on Plaintiff's own self-reports of illiteracy. The court notes that the ALJ gave sufficient reasons in the record for why he was skeptical of Plaintiff's self-reports. Finally, as the Magistrate Judge correctly pointed out, it is evident from a review of the record that the ALJ did not solely base his decision on a reference to an internet search, but instead based his decision on the record as a whole.

The court finds, after careful *de novo* review of the Magistrate Judge's R&R and all other relevant documents in the record, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation (ECF No. 19). The court hereby affirms the Commissioner's final decision.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.
CHIEF JUDGE
UNITED STATES DISTRICT COURT

June 29, 2015